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ILLINOIS COMMERCE COMMISSION  
CONSUMER AFFAIRS DIVISION  
SPRINGFIELD OFFICE

September 15, 1999

**CERTIFIED MAIL/RETURN RECEIPT REQUESTED**

**ILLINOIS COMMERCE COMMISSION**

527 E. Capitol Avenue  
Post Office Box 4905  
Springfield, IL 62708

**RE: INLAND PAPERBOARD AND PACKAGING, INC.  
(F/K/A INLAND CONTAINER CORPORATION)  
11600 W Grand Avenue  
Unincorporated Leyden Township, Illinois  
Gregory J Cagnassola (317) 879-4573**

**INFORMAL COMPLAINT**

Inland Paperboard and Packaging, Inc. ("Inland") is hereby filing an "INFORMAL COMPLAINT" with the Illinois Commerce Commission for erroneous charges, within our electric bills, beginning before December 1989. We have enclosed an original and 3 copies and would request that one copy be time stamped and returned in the enclosed self-addressed stamped envelope.

**I. MUNICIPAL TAXES AND FRANCHISE COSTS**

Commonwealth Edison Company has violated: (1) The Illinois Public Utilities Act; (2) The Illinois Municipal Code; (3) Ordinances of Franklin Park, Illinois; (4) State of Illinois Statutes; and (5) Tariffs by imposing Municipal Taxes and Franchise Costs imposed by the Village of Franklin Park onto Inland's electric bills for a period of over 8 years even though the property where the electric service was provided is located in an unincorporated area.

Shortly after it first discovered that it was erroneously being charged for taxes and franchise costs applicable only to residents of Franklin Park, Illinois, Inland presented detailed claims, evidence and electric bills, to Commonwealth Edison company on 10/14/98. The electric bills represented within those claims were for the 95 months from 12/05/89 to 10/30/97.

1. ComEd imposed and collected Municipal Taxes within Inland's electric bills for over 95 months from before 12/05/89 up until 10/30/97;

**ILLINOIS COMMERCE COMMISSION .**

**September 15, 1999**

**Page 2**

2. ComEd imposed and collected Franchise Costs within Inland's electric bills for 31 months from 04/05/95 up until 10/30/97;
3. ComEd voluntarily eliminated the illegally collected Municipal Taxes and Franchise Costs from Inland's electric bills on 10/30/97;
4. ComEd did not voluntarily refund those illegally collected taxes which were erroneously imposed upon Inland's past electric bills;
5. ComEd has refused to refund those illegally collected taxes which were erroneously imposed upon Inland's past electric bills;

Commonwealth Edison Company knew that the Municipal Taxes and Franchise Costs should never have been imposed upon our electric bills because:

- A. Inland's facility has always been located within an unincorporated area of Leyden Township.
- B. Every one of the over 95 electric bills ComEd sent to Inland proves that they were knowledgeable about our facility being within an unincorporated area of Leyden Township, since every bill was designated with a service address shown as "Leyden Twp".
- C. Ultimately, ComEd unilaterally eliminated those erroneous Municipal Taxes and Franchise Costs that they illegally collected from Inland in October 1997 and never disclosed why, and
- D. The taxes collected from Inland were improper and inconsistent with Illinois law and also with the Ordinance that established the Municipal Utility Tax within the Village of Franklin Park. (See copy of Ordinance Number 8990 G 12)

This discriminatory and unequal treatment impacted Inland's electricity expenses and correspondingly impacted Inland's cost of production resulting in greater costs to our customers and placed Inland at a competitive disadvantage in the market place for a period of more than 8 years. Our neighbors, within unincorporated Leyden Township, did not have these taxes imposed upon them.

ComEd's negligence is obvious and supported by evidence that we are also presenting to you. ComEd has continued to avoid responsibility for their mistake and declined Inland's full refund request.

With respect to the above, it should be noted that ComEd's "town code" within the assigned account number on Inland's electric bills was designated as "JE" up until 09/03/93 or 10/05/93. Then it was designated as "BF" up until 10/30/97. Those "town codes" were known by ComEd to be within their meter reader's card of Franklin Park. However, we have been unable to confirm if Commonwealth Edison Company ever gave all or any of the 5.150% for Municipal

**ILLINOIS COMMERCE COMMISSION**

September 15, 1999

Page 3

Taxes and/or 0.22751% for Franchise Costs, that they collected from us during those more than 95 months, to the Village of Franklin Park, Illinois.

During the 95 months from 12/05/89, up until 10/30/97, Inland's over-payments were:

- MUNICIPAL TAXES = \$138,122.84
- PLUS our over-payments due to
- FRANCHISE COSTS = \$2,165.65, (\$1,254.60 + \$911.05).

(See the enclosed copy of our 3 page spreadsheet listing each of the 95 monthly over-charges from 12/05/89 to 10/30/97)

We have been unable to compile and summarize our over-payments for all of our erroneous charges incurred before 12/05/89, but, we estimate our additional over-payments to have been equal to \$5,000.

As evidenced by the "Illinois Municipal Code" and also as evidence by the "Municipal Utility Tax" ordinance within every municipality that passed and approved one, INLAND was exempt from all Municipal Taxes and also from all Franchise Costs.

As stated within the "Illinois Municipal Code" (65 ILCS 5 - Sec. 8-11-2)

*"The corporate authorities of any municipality may tax any or all of the following occupations or privileges:*

*3. Persons engaged in the business of distributing, supplying, furnishing, or selling electricity for use or consumption within the corporate limits of the municipality, and not for resale, at a rate not to exceed 5% of the gross receipts therefrom."*

Every municipality that imposes a Municipal Tax and/or Franchise Cost, including the Village of Franklin Park, as quoted below, has the following similar statement within their ordinance:

*"NOW, THEREFORE, be it ordained by the President and the Board of Trustees of the Village of Franklin Park, Cook County, Illinois, as follows:*

*Section 1. That a tax is imposed on all persons engaged in the following occupations or privileges:*

*(c) Persons engaged in the business of distributing, supplying, furnishing, or selling electricity for use or consumption within the corporate limits of the Village of Franklin Park, and not for resale, at the rate of five percent (5.0%) of the gross receipts therefrom."*

**ILLINOIS COMMERCE COMMISSION**

September 15, 1999

Page 4

Inland's facility is not located within the corporate limits of any municipality. Inland did not ever use or consume electricity within the corporate limits of the Village of Franklin Park or any other municipality.

Inland was entitled to pay the lowest possible cost for electricity for which we qualified so that we could have competed effectively in our industry's marketplace. ComEd's actions resulted in Inland being discriminated against by having erroneous charges willfully, knowingly and illegally imposed in violation of the Illinois Public Utilities Act including, without limitation, Sections 9-221, 9-240 and 9-241 thereof.

ComEd has further refused to refund all of Inland's over-payments, with interest: (1) Even after they admitted their charges were erroneous by eliminating them; and (2) Even after we informed them that we became aware of their over-charges and their conscious knowledge of their over-charges; and (3) Even after we provided them with proof that they should not have ever imposed those charges in the first place.

We are enclosing a copy of:

1. Our 1997 Cook County Real Estate Tax Bill #12-30-102-002-0000 070 showing our facility to be within Leyden Township and the Tax Code to be 20011;
2. The Assessor Assessment Roll from the Office of the Cook County Assessor showing our Tax Code to be 20011;
3. The Tax Code Rate Report from the Office of the County Clerk showing that no tax payments were made to any incorporated Agency, since we are within an unincorporated area of Leyden Township; and
4. An example of a Tax Code Rate Report for properties within an incorporated area.

Inland's exemption from all Municipal Taxes and also from all Franchise Costs is based upon:

- a. Illinois Municipal Code (65 ILCS 5 - Sec. 8-11-12);
- b. All municipal ordinances, that passed and approved a "Municipal Utility Tax"; (See the enclosed Ordinance for the Village of Franklin Park)
- c. Illinois Public Utilities Act - Section 9-221 and Section 9-222;
- d. Illinois Public Utilities Act - Section 9-251, Section 9-252 and 9-252.1;
- e. Illinois Public Utilities Act - Section 9-241;
- f. Rider 23 - Municipal and State Tax Additions.

**ILLINOIS COMMERCE COMMISSION**

September 15, 1999

Page 5

**II. INTEREST TO BE PAID ON REFUNDED OVER-CHARGES**

In accordance with the "83 Illinois Administrative Code" Sections 280.75 and 280.76 and also the "Illinois Commerce Commission - Public Utility Act", Article IX, Sections 9-221 and 9-222,

"...the utility shall refund the over-charges with interest from the date of over-payment by the customer."

and

"...the utility shall pay interest on such refund at the rate established by the Commission..."

and

"... a refund to the appropriate customers of the excess, if any, with interest, ..."

Also, in accordance with ILCS 5/9-252 and also with ILCS 5/9-252.1, Inland's refund should include "... interest, at the legal rate from the date of payment of such excessive or unjustly discriminatory amount", ... along with "reasonable attorney fees".

**III. CONCLUSION**

Inland is hereby requesting that the ILLINOIS COMMERCE COMMISSION compel COMMONWEALTH EDISON COMPANY to retroactively comply with the laws within the State of Illinois and also with the Ordinance within the Village of Franklin Park along with other statutes and tariffs and order them to refund \$140,288 of OVER-PAYMENTS PLUS \$43,230 of compounded INTEREST which are due to Inland.

THEREFORE, the total refund due to Inland, as of September 1999, equals \$183,518 PLUS imposed penalties associated with their actions and associated attorney fees.

Sincerely,



Gregory J. Cagnassola

GJC:mab

Enclosures

cc: Dave Geiger - Inland/Northlake #19  
Steve Wolfe - Inland/Northlake #19  
Bill White - Inland/Crawfordsville #27